

रजिस्ट्रं नं० पी० 461.



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुकवार, 5 नवम्बर, 1971/14 कार्तिक, 1893

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 28th October, 1971

No. 6-4/70-LR.—The Redemption of Mortgages (Himachal Pradesh) Bill, 1971 (Bill No. 11 of 1971) after having received the assent of the

1708-गजट-5-11-71—675.

(1335)

मूल्य: 13 पैसे

Governor, Himachal Pradesh, on the 20th October, 1971, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 13 of 1971.

Act No. 13 of 1971

THE REDEMPTION OF MORTGAGES (HIMACHAL PRADESH) ACT, 1971

AN
ACT

to provide a summary procedure for the redemption of certain mortgages of land in Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Redemption of Mortgages (Himachal Pradesh) Act, 1971.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

(4) It shall apply only to mortgages of land—

(a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area of 50 acres; or

(b) in which, whatever the area the principal money secured under the mortgage does not exceed 5,000 rupees.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression “land” means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes—

(a) the sites of buildings and other structures on such land;

(b) a share in the profits of an estate or holding;

(c) any dues or any fixed percentage of the land revenue payable to landowner;

(d) a right to receive rent;

(e) any right to water enjoyed by the owner, or the occupier of land as such; and

(f) any right of occupancy;

(2) the expression “Collector” shall mean the Collector of the District in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade;

(3) “prescribed” shall mean prescribed by rules made under this Act.

3. Subject to the provisions of this Act and the rules thereunder, the provisions of sections 79, 85, 86, 87, 89, 90, 91, 92 and 101 of the Punjab Tenancy Act, 1887, as applicable to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1955 and sections 113, 119, 120, 121, 123, 124, 125, 126 and 135 of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953, as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1956, shall, so far as may be, apply to all proceedings of a Collector under this Act in the respective areas.

Short title, extent, commencement and limitation of scope of Act to certain mortgages.

Definitions.

Application of certain sections of the Punjab Tenancy Act, 1887 and the Himachal Pradesh Act No. 15 of 1954.

16 of 1887

31 of 1966

15 of 1954

Petition for redemption, verification, deposit and particulars to be contained in petition.

4. The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and where the mortgage is with possession that he be put in possession of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector.

The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

Mortgagee to be summoned.

5. When the petition has been duly presented and the deposit has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

Procedure when petitioner is absent and mortgagee present.

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, make an order that the petition be dismissed, unless the mortgagee admits the claim, in which case the Collector shall make an order—

- (a) that the mortgage be redeemed;
- (b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee;
- (c) that the mortgagee deposits with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner;
- (d) that subject to the mortgage-deed, if any, being so deposited by the mortgagee the sum in deposit be paid to him:

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession.

Procedure when petitioner is present and mortgagee absent.

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, inquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the Collector is satisfied that petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

8. Where both parties appear when the petition is called on for hearing, the Collector shall inquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt, and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

Procedure when both parties are in attendance, order for redemption.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the mortgagee admits the petitioner's title to redeem, but demands payment of a sum larger than that in deposit, the Collector shall inquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest upto the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary inquiry regarding the objection raised by the mortgagee or regarding the sum due.

Procedure in contentious cases.

10. If on inquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

Inquiry into objection raised by mortgagee.

11. If on inquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest upto the date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days, as the Collector may fix, the Collector shall make an order as laid down in clauses (a), (b), (c) and (d) of section 6 of this Act.

Inquiry regarding sum due.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

12. Any party aggrieved by an order made under sections 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage, but, subject to the result of such suit, if any, the order shall be conclusive.

Saving of suits to establish rights and setting aside *ex-parte* orders or orders of dismissal.

Notwithstanding anything in this section a mortgagee against whom an *ex-parte* order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside, and the Collector may in his discretion

set aside, such order or dismissal on such terms as to costs or otherwise as he may deem fit:

Provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party.

No second petition.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage.

Return of deposit.

14. If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him.

Deposit not to be attached.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer.

Cessation of interest.

16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit.

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit:

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money:

Provided further that where a suit is instituted under section 12, the court may pass such order as to interest as it deems fit.

Power to make rules.

17. (1) The State Government may, by notification in the Rajpatra, Himachal Pradesh, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

18. The Redemption of Mortgages (Punjab) Act, 1913 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Redemption of Mortgages (Punjab) Act, 1913 in its application to the areas added to Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

2 of 1913

2 of 1913

31 of 1966

Provided that anything done or any action taken or rules made or notification issued in exercise of the powers conferred by or under the provisions of the Acts so repealed to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done, action taken, rules made or notification issued.

Simla-2, the 2th October, 1971

No. 6-20/70-LR.—The Punjab Land Revenue (Himachal Pradesh Amendment) Bill, 1971 (Bill No. 13 of 1971), after having received the assent of the Governor, Himachal Pradesh, on the 20th October, 1971 under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 14 of 1971.

Act No. 14 of 1971

**THE PUNJAB LAND REVENUE (HIMACHAL PRADESH
AMENDMENT) ACT, 1971**

AN

ACT

further to amend the Punjab Land Revenue Act, 1887 in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Punjab Land Revenue (Himachal Pradesh Amendment) Act, 1971.

Short title.

2. In section 4 of the Punjab Land Revenue Act, 1887, as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (hereinafter referred to as the principal Act),—

Amendment of section 4.

(i) in sub-section (1), for the words “for the record, recovery and administration of village-cesses”, the following shall be substituted, namely:—

“for the record, recovery, administration of village-cesses and for taking action against the encroachers under section 150”;

(ii) the existing explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“**Explanation 2.**—For the purposes of this section and section 150 ‘land’ means land of all types (including forest land, ghasni land, cultivable or uncultivable waste land and khadeter land) whether assessed to land revenue or not, used or likely to be used for any purpose, whether agricultural or otherwise, and includes,—

(a) any building, whether constructed or under construction, and any part thereof; and

(b) the garden, ground and out-houses, if any, appurtenant to such building or part thereof”.

3. For section 150 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 150.

“150. **Prevention of encroachment on lands.**—(1) Where Government land or land which has been reserved for the site of a village or for the common purposes of the co-sharers therein has been encroached upon by any co-sharer or other person for any purpose including construction of a building or other structure thereon, then—

(a) the Revenue Officer may of his own motion or on the application of any other co-sharer eject the encroaching person (hereinafter in this section referred to as the encroacher) from such land and by order, proclaimed in the manner

mentioned in section 22, prohibit repetition of the encroachment therein:

Provided that no encroacher shall be ejected under this clause unless he has been given a reasonable opportunity of showing cause against the ejection;

- (b) the Revenue Officer may, having regard to such principles of assessment of damages as may be prescribed, assess the damages on account of such encroachment and may, by order, require the encroacher to pay the damages within such period and in such instalments as may be specified in the order;
 - (c) if the encroacher has erected any building or other structure or has grown crops or planted trees on the encroached land, it shall be competent for the Revenue Officer, while ordering his ejection, to dismantle such building or other structure and confiscate any produce or other material on such land and put the same in public auction and deposit the sale proceeds thereof into the Government Treasury; and
 - (d) the Revenue Officer may impose upon the encroacher a fine up to five hundred rupees per bigha or part thereof in the case of first encroachment and, where the encroachment is repeated, a fine up to one thousand rupees per bigha or part thereof for each such subsequent encroachment.
- (2) Any amount payable as damages under clause (b) of sub-section (1) or as fine under clause (d) of that sub-section may be recovered in the same manner as arrears of land revenue.
- (3) No suit or other legal proceeding shall lie against the Revenue Officer or any person acting under this section in respect of anything in good faith done or purported to have been done under the provisions thereof or the rules made thereunder.

Explanation.—For the purposes of this section, any person who holds land under a lease granted by the Government for a fixed term and continues to be in possession of the land beyond the expiry of the period of lease shall be deemed to be an encroacher unless such person gets the lease extended or renewed.”

Amendment
of section
158.

4. In section 158 of the principal Act, in sub-section (2), after clause (xxiii), the following clause shall be inserted, namely:—

“(xxiv) the ejection of any person under section 150 or the recovery of damages or fine payable under sub-section (1) of that section.”

Simla-2, the 28th October, 1971

No. 6-21/71-LR.—The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Bill, 1971 (Bill No. 16 of 1971) after having received the assent of the Governor, Himachal Pradesh, on the 20th October, 1971, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 15 of 1971.

Act No. 15 of 1971

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) ACT, 1971**

AN

ACT

to protect the tenants in the transferred territory in the State of Himachal Pradesh against eviction from their tenancies and for the matters incidental or ancillary thereto.

BE it enacted by the Legislative Assembly of the State of Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the transferred territory in the State of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Transferred territory" means the territory added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966; and

(b) all other words and expressions used in this Act and not defined in it shall have the same meanings as assigned to them in,—

(i) the Pepsu Tenancy and Agricultural Lands Act, 1955, in relation to the area in which that Act is in force; or

(ii) the Punjab Tenancy Act, 1887, in relation to the area in which that Act is in force.

3. Notwithstanding anything contained in the Pepsu Tenancy and Agricultural Lands Act, 1955 or the Punjab Security of Land Tenures Act, 1953 or the Punjab Tenancy Act, 1887 or any other law or custom for the time being in force or in any contract, from the commencement of this Act,—

Stay of
eviction
proceedings.

(a) no suit, proceedings in execution of decrees or orders, or other proceedings for eviction of a tenant from his tenancy or any part thereof shall lie in any court or before any Revenue Officer for a period of one year; and

(b) all suits, proceedings in execution of decrees or orders and other proceedings for such eviction pending in a court or before a Revenue Officer at the commencement of this Act, shall, for a period of one year, from such commencement, be stayed.

31 of 1966

13 of 1955

6 of 1887

13 of 1955
10 of 1953
16 of 1887

Suits or other proceedings for eviction due to non-payment of rent to be treated as suits or proceedings for recovery of arrears of rent.

4. Notwithstanding anything contained in section 3, if at the commencement of this Act, any suit or other proceedings for eviction of a tenant for non-payment of arrears of rent is pending in a court or before a Revenue Officer, the court or a Revenue Officer as the case may be, may, on an application made to it or him within sixty days from the commencement of this Act by the landowner treat such suit or other proceedings as a suit or other proceedings for recovery of arrears of rent and dispose it of accordingly.

Repeal and savings.

5. (1) The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968 is hereby repealed.

13 of 1968

(2) The repeal by this Act shall not affect anything done or any action taken in the exercise of any power conferred by or under the repealed Act or any events which have ensued from the operation of the repealed Act.

Simla-2, the 28th October, 1971

No. 6-17/71-LR.—The Himachal Pradesh Legislative Assembly (Allowances of Members) (Amendment) Bill, 1971 (Bill No. 19 of 1971), after having received the assent of the Governor, Himachal Pradesh on the 20th October, 1971, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 16 of 1971.

Act No. 16 of 1971

**THE HIMACHAL PRADESH LEGISLATIVE ASSEMBLY
(ALLOWANCES OF MEMBERS) (AMENDMENT) ACT, 1971**

AN

ACT

to amend the Himachal Pradesh Legislative Assembly (Allowances of Members) Act, 1971.

BE it enacted by the Legislative Assembly of the Himachal Pradesh in the Twenty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Legislative Assembly (Allowances of Members) (Amendment) Act, 1971.

(2) It shall come into force at once.

2. For sub-section (2) of section 1 of the Himachal Pradesh Legislative Assembly (Allowances of Members) Act, 1971 (hereinafter called the principal Act), the following sub-section shall be substituted, namely:—

“(2) It shall be deemed to have come into force with effect from the 25th January, 1971 but section 4-A shall be deemed to have come into force on the 1st July, 1963.”

3. After section 4 of the principal Act, the following new section 4-A shall be inserted, namely:—

“4-A. *Regularisation of travelling allowance with effect from 1st July, 1963 to 24th January, 1971.*—(1) There shall be paid travelling allowance to each member in respect of every journey performed by road for the purpose of attending session of the Assembly or a meeting of a committee or for the purpose of attending to any other business connected with his duties as a member, from his usual place of residence to the place where the session or the meeting is to be held or the other business is to be transacted and for the return journey from such place to his usual place of residence at the rate of fifty-five paise per kilometre from the 1st day of July, 1963 to twenty-fourth day of January, 1971.

(2) No member shall be entitled to claim any arrears with respect to the period mentioned in sub-section (1).”

Short title and commencement.

Substitution of sub-section (2) of section 1.

Insertion of new section 4-A.

of 1971

Simla-2, the 28th October, 1971

No. 6-24/71-LR.—The Himachal Pradesh Appropriation Bill, 1971 (Bill No. 22 of 1971) after having received the assent of the Governor, Himachal Pradesh, on the 20th October, 1971, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh as Act No. 17 of 1971.

ACT No. 17 of 1971

THE HIMACHAL PRADESH APPROPRIATION ACT, 1971

AN
ACT

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Himachal Pradesh for the services of the year ending on the 31st day of March, 1972.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-Second Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Appropriation Act, 1971.

2. From and out of the Consolidated Fund of the State of Himachal Pradesh there may be paid and applied further sums not exceeding those specified in column 3 of the schedule amounting in the aggregate to the sum of six crores thirty eight lakhs forty-nine thousand rupees towards defraying the charges which will come in course of payment during the financial year, 1971-72 in respect of the services specified in column 2 of the schedule.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Himachal Pradesh by this Act shall be further appropriated for the services and purposes expressed in the schedule in relation to the period mentioned in section 2 of this Act.

Short title.

Issue of a further sum of Rs. 6,38,49,000 out of the Consolidated Fund of the State of Himachal Pradesh for the year 1971-72.

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Service and purposes	Voted by the Legislative Assembly	Charged on the Consoli- dated Fund	Total
1	2	3		4
		Rs.	Rs.	Rs.
3.	Taxes on Vehicles ..	57,000	—	57,000
4.	Sales Tax ..	—	101	101
5.	Other Taxes and Duties ..	1,10,000	—	1,10,000
9.	General Administration ..	—	73,000	73,000
12.	Police ..	15,00,000	—	15,00,000
12-A.	Supplies and Disposals ..	41,000	—	41,000
13.	Miscellaneous Departments ..	10,00,000	—	10,00,000
15.	Education ..	2,00,000	—	2,00,000
16.	Medical ..	6,48,000	—	6,48,000
17.	Public Health ..	5,97,000	—	5,97,000

1	2	3	4
		Rs.	Rs.
18. Agriculture ..	18,09,000	—	18,09,000
22. Community Development Projects, National Extension Service and Local Development Works ..	1,40,69,500	—	1,40,69,500
29. Public Works—(Communications)	50,00,000	—	50,00,000
30. Public Works—(Other Works) ..	9,00,000	514	9,00,514
33. Famine Relief ..	2,63,000	—	2,63,000
38. Miscellaneous ..	59,85,000	160	59,85,160
41. Capital Outlay on Improvement of Public Health ..	2,00,000	—	2,00,000
45. Capital Outlay on Public Works—(Communications) ..	40,00,000	—	40,00,000
46. Capital Outlay on Public Works—Buildings ..	15,45,725	—	15,45,725
52. Loans and Advances by State and Union Territory Governments ..	2,58,50,000	—	2,58,50,000
GRAND TOTAL ..	6,37,75,225	73,775	6,38,49,000

JOSEPH DINA NATH,
Under Secretary (Judicial).